

FILED
HARRISBURG, PA

MAR 29 2024

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIASARA PICKETT,
Plaintiff

v.

NORTH CHRISTOPHER MENGES
JOSHUA HARSHBERGER
BRUCE HEXTER
KRISTOFFER HEXTER,
Defendants


Case No. 1:24-CV-537

NOTICE OF CONSTITUTIONAL
CHALLENGE TO STATUTE

Pursuant to Rule 5.1(a) of the Federal Rules of Civil Procedure, Plaintiff, pro se, respectfully files this Notice of Constitutional Challenge to Statute to the Attorney General of Pennsylvania ("Attorney General") to give notice of the constitutional questions contained in Plaintiff's **CIVIL RIGHTS COMPLAINT WITH DEMAND FOR JURY TRIAL**. In support thereof, Plaintiff shows as follows:

1. Plaintiff challenges that 23 Pa. C.S. § 5325(2) as applied to case no. 2021-FC001007-03 in the York County Court of Common Pleas is unconstitutional
 - a. This application does not consider the guidelines of 23 Pa. C.S. § 5325(2), as it could not apply unless the court is acting as a tie-breaker between two parties with equal rights. The consenting parent, in this case, does not possess any decision-making rights regarding the children.
 - b. This application fails to consider the risks of allowing the perpetrator of domestic violence and violent sexual offenses against a minor to request court interference against his victims.
 - c. This application does not consider the additional requirements under 23 Pa. C.S. § 5328.
2. Plaintiff challenges that 23 Pa. C.S. § 5325(2) is facially unconstitutional.
 - a. This statute, in its proper application, will always have the effect of allowing any prevailing parent to consent to override the decision-making rights of the other parent without regard to their fitness as a parent.
 - b. If a parent is fit to consent to this interference, it's reasonable to expect that they have parenting time that can be utilized to facilitate this contact between grandchild and grandparent.
 - c. A disagreement between the parents does not constitute a voluntary and intelligent waiver of any rights,
 - d. A disagreement between the parents cannot be translated to assume that a parent opposing unnecessary court intervention is unfit, and
 - e. A disagreement between the parents does not constitute a compelling state interest.

Respectfully Submitted,


Sara Pickett